

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Herman Joseph Daniels,

Plaintiff,

vs.

Warden Denis Bush, Sgt. K. McMorris,

Defendants.

C/A No. 4:17-3010-JFA

ORDER

Herman Joseph Daniels (Plaintiff), proceeding pro se and *in forma paperis*, brings this action against Warden Denis Bush and Sgt. K. McMorris (Defendants) alleging violations of his constitutional rights pursuant to 42 U.S.C. § 1983.

The Magistrate Judge assigned to this action¹ has prepared a thorough Report and Recommendation wherein the Magistrate Judge suggests that this Court should grant Defendants' Motion for Summary Judgment. The Report sets forth in detail the relevant facts and standards of law on this matter, and the Court incorporates such without a recitation.

¹ The Magistrate Judge's review is made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Civil Rule 73.02(B)(2)(d) (D.S.C.). The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of those portions of the Report to which specific objection is made and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge, or recommit the matter to the Magistrate Judge with instructions. 28 U.S.C. § 636(b)(1).

Defendants filed a motion to dismiss or in the alternative a motion for summary judgment. (ECF No. 19). On February 14, 2018, the Magistrate Judge issued an order pursuant to *Roseboro v. Garrison*, 528 F.2d 309 (4th Cir. 1975) notifying Plaintiff of the summary dismissal procedure and possible consequences if Plaintiff failed to adequately respond to the motion. Plaintiff filed a motion for an extension of time to respond to Defendants' Motion which the Magistrate Judge granted. On April 13, 2018, Plaintiff filed a response in opposition to Defendants' Motion.

On June 27, 2018, the Magistrate Judge issued a Report and Recommendation (Report) where he recommended that summary judgment be granted. (ECF No. 30). The Magistrate Judge found that there was no genuine issue of material fact as to Plaintiff's § 1983 claim. As to Plaintiff's state law claims, the Magistrate Judge found that the Court should decline to continue the action if the Court dismisses the § 1983 claim. *See* 28 U.S.C. § 1367(c). Plaintiff was also advised of his right to file objections to the Report. (ECF No. 30-2). Plaintiff did not file objections to the Report. The time within which to do so has now expired.

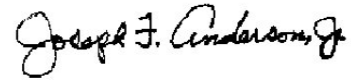
In the absence of specific objections to the Report of the Magistrate Judge, this court is not required to give any explanation for adopting the recommendation. *See Camby v. Davis*, 718 F.2d 198, 199 (4th Cir. 1983). The court must "only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." *Diamond v. Colonial Life & Acc. Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005).

After carefully reviewing the applicable laws and the record in this case, this Court adopts the Magistrate Judge's Report and finds that it fairly and accurately summarizes the

facts and applies the correct principles of law. Accordingly, Defendants' Motion for Summary Judgment is granted.

IT IS SO ORDERED.

July 17, 2018
Columbia, South Carolina

A handwritten signature in black ink that reads "Joseph F. Anderson, Jr." The signature is written in a cursive, flowing style.

Joseph F. Anderson, Jr.
United States District Judge